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**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

In re Mortgage Loan Originator
License Application of:

MATTHEW DAVID COLE,
NMLS ID No. 633188,

Applicant.

Docket No. 2021-16-53

**ORDER DENYING MORTGAGE LOAN
ORIGINATOR LICENSE APPLICATION AND
NOTICE OF THE OPPORTUNITY TO
REQUEST A HEARING**

The Director of the State of Idaho, Department of Finance (Director), pursuant to the Idaho Residential Mortgage Practices Act, Idaho Code § 26-31-101 et seq. (the Act), and in particular §§ 26-31-306(1)(d) and (h) and 26-31-313(1)(a) and (b) of the Act, hereby issues the following Findings of Fact, Conclusions of Law, and Order Denying Mortgage Loan Originator License Application, and Notice of the Opportunity for a Hearing (Order).

FINDINGS OF FACT

1. The Applicant, Matthew David Cole, a resident of the state of California, holds NMLS number 633188 and applied for an Idaho Mortgage Loan Originator (MLO) license by filing an individual Form MU4 through the online Nationwide Mortgage Licensing System (NMLSR or

NMLS). This application was attested to by the Applicant and submitted on the Applicant's behalf by Courtney Spann of Hometown Lenders, Inc. on March 15, 2021.

2. The application Form MU4, seeks information about an applicant's qualifications to be licensed as a mortgage loan originator. Section 6 of the application form is entitled "Disclosure Questions" and it consists of a series of questions that inquire into an applicant's history regarding financial, criminal, civil, judicial and regulatory matters.

3. Pertinent to the Applicant's qualifications is the following question: (D): "Do you have any unsatisfied judgments or liens against you?" The Applicant answered with a "yes" to this question. For the accompanying Disclosure Explanations section, the Applicant provided the following brief response in the Disclosure Explanations section of Form MU4: "There is a past tax lien that [I] am currently paying on." The Applicant then uploaded a copy of a Notice of Levy on Wages, Salary, and Other Income that was issued by the Internal Revenue Service, which indicated that the Applicant was the subject of a federal wage garnishment for unpaid personal income tax for years 2004, 2005, and 2006 (total balance was \$23,893.49). Also uploaded was a Termination of Order to Withhold Tax that was issued to the Applicant by the State of California, Franchise Tax Board on April 30, 2013, terminating the wage withholding it had in place at that time.

4. Consistent with normal practice, a Department examiner conducted an assessment of the Applicant using various sources of public information to determine if the Applicant

demonstrates sufficient financial responsibility, character, and general fitness in order to be licensed as a mortgage loan originator.¹

5. The examiner obtained a public record background information report through LexisNexis that reflected the Applicant has an outstanding judgment and additional federal tax liens entered against him. Following this, the examiner obtained a copy of the judgment and the tax liens as follows:

- a. Application for and Renewal of Judgment in the total amount of \$28,615.61 filed on December 11, 2013 in favor of Ford Motor Credit Company against the Applicant in the Superior Court of California, County of Sutter, Limited Civil Division, Case No. CVCM03-2387. The court clerk explained to the requesting examiner that copies of the original 2004 judgment could not be produced.
- b. Notice of Federal Tax Lien against the Applicant for \$36,824.30, Serial Number 305490018, dated April 20, 2018, and was recorded in the Sacramento County, California Recorder's Office on May 1, 2018, under Instrument Number 201805010419. The Notice of Federal Tax Lien (for tax years 2014 and 2015) indicates that \$17,662.34 of the total balance remains in effect through December 23, 2025, the remaining balance of \$19,161.96 remains in effect through December 7, 2026.

¹ Conducted pursuant to Part 3 of the Act titled "The Idaho Secure and Fair Enforcement for Mortgage Licensing Act" (Idaho S.A.F.E. Mortgage Licensing Act), Idaho Code § 26-31-306.

c. Notice of Federal Tax Lien against the Applicant for \$98,486.05, Serial Number 370536919, dated July 18, 2019, and was recorded in the Sacramento County, California Recorder's Office on July 30, 2019, under Instrument Number 201907300779. The Notice of Federal Tax Lien (for tax year 2017) indicates that that the total balance remains in effect through December 19, 2028.

6. The Department has no evidence indicating that the judgment or tax liens described above have been satisfied and/or released.

7. The Applicant's failure to provide details of the two federal tax liens and the judgment described above constitute material omissions.

8. On July 9, 2021 the Department provided the Applicant notice of an intent to deny the application within approximately one month based on the information set forth above unless the Applicant was able to provide documentation on or before August 6, 2021 to satisfy the Department that disclosure of the outstanding tax liens and the judgment was not required. The notice alternatively provided the Applicant the opportunity to withdraw the application. The Applicant failed to provide the requisite documentation or withdraw the application by the stated deadline.

FINDINGS AND CONCLUSIONS OF LAW

9. The allegations set forth in paragraphs 1 through 8 above are fully incorporated herein by this reference.

10. Idaho Code § 26-31-304 provides that an individual shall not engage in the business of a mortgage loan originator without first obtaining, and maintaining annually, a license.

11. Idaho Code § 26-31-305(1) provides that an applicant for a mortgage loan originator license must apply through the Nationwide Mortgage Licensing System (NMLS), in a form required by the Director of the Idaho Department of Finance (Director).

12. Pursuant to Idaho Code § 26-31-306(1)(h), before an application for license can be approved, an applicant must provide all information on the application as required per Idaho Code § 26-31-305. Idaho Code § 26-31-305(10) further provides that an applicant shall make complete disclosure of all information as set forth in the application.

13. Idaho Code § 26-31-306(1)(d) provides that the Director shall not issue a mortgage loan originator license under the Act unless the Director makes a finding that an applicant has demonstrated financial responsibility, character and general fitness sufficient to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of the Act.

14. Pursuant to Idaho Code § 26-31-313(1)(b), the Director may deny a license if an applicant withholds information or makes a material misstatement in an application for a license.

15. The Applicant made a material misstatement of fact in his application, which is grounds to deny his application for licensure. He failed to disclose the outstanding tax liens and a judgment. The failure to disclose the outstanding federal tax liens and the judgment prohibits the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(d) and (h).

16. The Director finds it appropriate to deny the application because the Applicant's failure to provide complete and accurate information on the Form MU4 regarding the outstanding tax liens and the judgment demonstrates that the Applicant lacks the appropriate

character and fitness sufficient to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of the Act and demonstrate a failure to provide complete information in the application as required by Idaho Code § 26-31-305. Because the Director cannot make the requisite findings under Idaho Code § 26-31-306(1)(d) and (h), it is appropriate to deny the Applicant's request for an Idaho mortgage loan originator license, pursuant to Idaho Code § 26-31-313(1).

ORDER

NOW, THEREFORE, BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND PURSUANT TO IDAHO CODE §§ 26-31-313(1)(a) and (b), IT IS ORDERED THAT THE APPLICATION FOR A MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION ATTESTED TO BY MATTHEW DAVID COLE, NMLS #633188, ON MARCH 15, 2021 AND SUBMITTED ON HIS BEHALF BY COURTNEY SPANN OF HOMETOWN LENDERS, INC. ON THE SAME DATE, IS HEREBY DENIED.

NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING

17. The Applicant is HEREBY NOTIFIED that the foregoing ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION is a final order of the Director denying the license application, subject to the Applicant's right to timely file a request for a hearing on the question of his qualifications for a mortgage loan originator license under the Act, pursuant to Idaho Code § 26-31-305(6)(a). Such request for a hearing must be in writing and submitted to the

Department within fifteen (15) days after the service of this Order. A copy of the request for hearing shall be served on the following:

Erin Van Engelen
Consumer Finance Bureau Chief
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

A copy of the request for contested case and hearing shall also be served on the Department's counsel in this matter:

Thomas A. Donovan
Deputy Attorney General
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

Alternatively, the Applicant may email the request for hearing to: CFLegal@finance.idaho.gov.

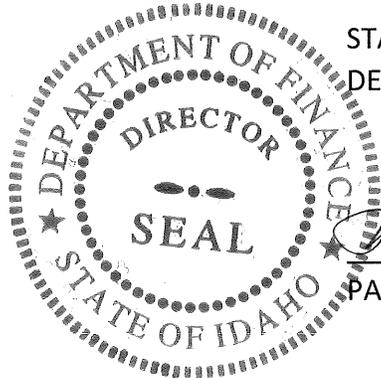
18. If the Applicant timely requests a hearing, the Director of the Department, or a Hearing Officer acting on the Director's behalf, will notify the Applicant of further steps including the date, time and place of the hearing.

19. Any hearing and subsequent proceedings in this matter will be conducted in accordance with the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.* and the Idaho Rules of Administrative Procedure (IDAPA 04.11.01).

20. Pursuant to Idaho Code § 26-31-305(6), if a hearing is held, the Applicant shall reimburse, pro rata, the Director for her reasonable and necessary expenses incurred as a result of the hearing.

IT IS SO ORDERED.

DATED this 30th day of August 2021.



STATE OF IDAHO
DEPARTMENT OF FINANCE



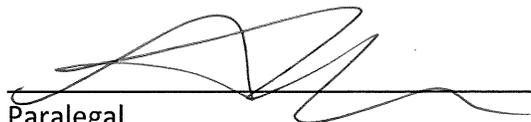
PATRICIA R. PERKINS, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August 2021, I caused a true and correct fully-executed copy of the foregoing ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION AND NOTICE OF THE OPPORTUNITY FOR A HEARING to be served on the following by the designated means:

Matthew David Cole
4420 American River Dr.
Sacramento, CA 95864

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: mcole1001@gmail.com



Paralegal